

## REMARKS

Applicants appreciate the Examiner's thorough review and consideration of the subject application. The final Office Action of August 9, 2005 has been received and its contents carefully noted.

Claims 32-38 and 43-49 are currently pending in the application. No new matter has been added. Reconsideration and withdrawal of all pending rejections in view of the above amendments and following remarks is respectfully requested.

### ***After Final Amendment filed October 19, 2005***

In a telephone call to Examiner Hayes on November 8, 2005, Examiner Hayes indicated that the October 19, 2005 amendment after final will be entered, but does not place the application in condition for allowance. Accordingly, the present response is supplemental to the October 19, 2005 amendment.

### ***Interview***

Applicants wish to thank Examiner Hayes for his outstanding courtesy and cooperation exhibited during the personal interview conducted on November 2, 2005 with Applicants' undersigned representative.

During the interview, Applicants' undersigned representative discussed the prior art rejection of the independent claims. Moreover, the differences between the prior art and the disclosed invention were discussed. However, the Examiner was not fully persuaded by the arguments with respect to the Flatland et al., Haber et al., and Smith et al. references.

Nevertheless, in order to expedite prosecution of the application, it was discussed what additional limitations could be made to the claims. In this regard, the Examiner thought that more specifically claiming the wall protector in the independent claims would overcome the prior art rejection. In particular, reciting: "said cylindrical wall protector located between the throughbore, overlapping in a longitudinal direction, and separated from said upper seal wall and extending substantially into said upper seal portion." The Examiner indicated that reciting this feature would better distinguish the claimed invention over the prior art as indicated in the interview summary.

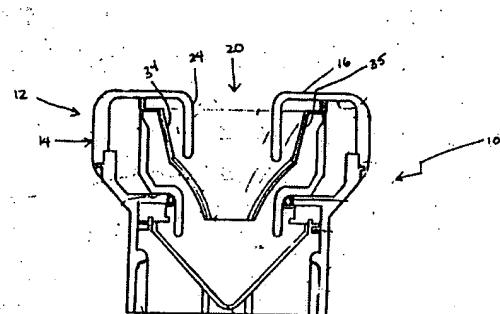
**Rejections Under 35 U.S.C. § 102**

The Examiner has rejected claims 32-36, 38, 43-47, and 49 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,752,938, issued to Flatland et al., (hereinafter Flatland). The Examiner alleges that Flatland discloses a wall protector extending into the interior of the upper portion body portion, concluding that this extension into the interior places the wall protector between the throughbore and the valve seal. Applicants respectfully traverse this rejection for at least the following reasons.

Applicants assert that Flatland is insufficient as an anticipatory reference because it fails to teach each and every element of the presently claimed invention. Claim 32 recites, *inter alia*, that the cylindrical wall protector is integrally formed with the upper surface at the throughbore and is located between the throughbore and upper seal wall extending *substantially* into the upper seal portion; and claim 43 recites, *inter alia*, a cylindrical wall protector located between the throughbore and upper seal wall and extending *substantially* into said upper seal portion.

Additionally, the claims generally recite that the cylindrical wall protector is located between the throughbore overlapping in a longitudinal direction, and separated from said upper seal wall and extending substantially into said upper seal portion.

For clarification, Figure 3 from the Applicants' specification has been reproduced below illustrating an embodiment of a seal assembly 10 of the claimed invention. The numeral designations not pertinent to the argument have been deleted.



With reference to the above Figure, a throughbore 20 is provided at the center of the upper surface 16 where the throughbore extends completely through the seal assembly 10. The cylindrical wall member 24 is integrally formed with the upper surface 16 at the throughbore 20 to project inwardly into the interior of the upper body portion 12. Moreover, the cylindrical wall protector 24 is located between the throughbore 20 and the upper seal wall which includes the upper inner seal wall 34 and the upper outer seal wall 35.

For clarification, Figure 23 of Flatland has been reproduced below. Unlike the claimed invention, Flatland only discloses a seal assembly having a wall 45 that meets the seal membrane 32. As can be seen in Figure 23 of Flatland, wall 45 is not integrally formed with the upper surface at the throughbore as in the claimed invention.

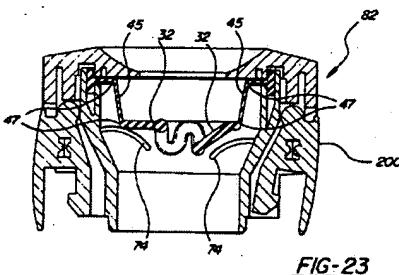


FIG-23

In this regard, Flatland does not disclose, *inter alia*, a cylindrical wall protector integrally formed with the upper surface that projects inwardly into an interior portion where cylindrical wall protector is located between the throughbore and upper seal wall and extending substantially into the said upper seal. Additionally, nowhere does Flatland teach or suggest the feature of a cylindrical wall member integrally formed with the upper surface at the throughbore.

Therefore, Applicants assert that Flatland is insufficient as an anticipatory reference because it fails to teach or suggest a cylindrical wall protector integrally formed with the upper surface at the throughbore.

Moreover, claim 32 recites, *inter alia*, a cannula receiving opening adapted to mount the seal assembly on the cannula; claim 43 recites, *inter alia*, a cannula connection that connects the seal assembly to the cannula. On the contrary, Flatland is a trocar converter and does not disclose any such opening for receiving a cannula.

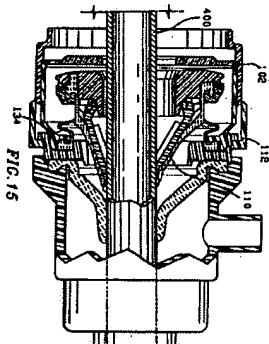
Additionally, Flatland does not disclose a cylindrical wall protector located between the throughbore overlapping in a longitudinal direction, and separated from said upper seal wall and extending substantially into said upper seal portion.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. § 102(b) rejection of claims 32-36, 38, 43-47, and 49. Since Flatland fails to teach or suggest all the features of the claimed invention, Applicants respectfully submit that independent claims 32 and 43, and all the claims that depend therefrom, are allowable.

Next, the Examiner has rejected claims 32-37 and 43-48 as being anticipated by U.S. Patent No. 5,603,702, issued to Smith et al., (hereinafter Smith). Applicants respectfully traverse this rejection for at least the following reasons.

As discussed above, claim 32 recites, *inter alia*, that the cylindrical wall protector is integrally formed with the upper surface at the throughbore and is located between the throughbore and upper seal wall extending *substantially* into the upper seal portion; and claim 43 recites, *inter alia*, a cylindrical wall protector located between the throughbore and upper seal wall and extending *substantially* into said upper seal portion.

Applicants assert that Smith is insufficient as an anticipatory reference because it fails to teach or suggest each and every element of the claimed invention. For clarification, Figure 15 of the Smith '702 patent illustrating seal 110 is reproduced below.



As is illustrated in Figure 15, nowhere does Smith teach or suggest a cylindrical wall protector integrally formed with the upper surface at the throughbore; a cylindrical wall protector located between the throughbore and the upper seal wall and extending *substantially* into the upper seal portion; or a cannula receiving opening adapted to mount the seal assembly on the cannula as generally recited by claims 32 and 43.

On the contrary, Smith has an end cap 102 shown above that does not include any sort of integral wall protector. Moreover, Smith does not disclose a wall protector that extends *substantially* into an upper seal portion. Additionally, the Smith disclosure shows a cannula 200 and valve 100 structures that are a single unit. Accordingly, Smith does not disclose any sort of cannula receiving opening adapted to mount the seal assembly on the cannula as set forth by the disclosure.

Moreover, Smith does not disclose a cylindrical wall protector located between the throughbore overlapping in a longitudinal direction, and separated from said upper seal wall and extending substantially into said upper seal portion.

Since Smith fails to teach or suggest each and every element of the claimed invention, Smith fails as an anticipatory reference. Therefore, Applicants respectfully submit that independent claims 32 and 43, and all the claims that depend therefrom are allowable.

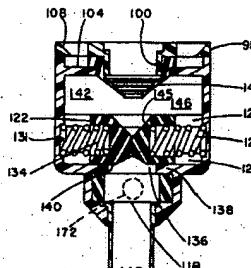
Accordingly, Applicants respectfully request reconsideration and withdrawal of the present rejection under 35 U.S.C. § 102(b).

Finally, the Examiner has rejected claims 32-35 and 43-46 as being anticipated by U.S. Patent No. 5,391,153, issued to Haber et al., (hereinafter Haber). Applicants traverse the rejection for at least the following reasons.

As discussed above, claim 32 recites, *inter alia*, that the cylindrical wall protector is integrally formed with the upper surface at the throughbore and is located between the throughbore and upper seal wall extending *substantially* into the upper seal portion; and claim 43 recites, *inter alia*, a cylindrical wall protector located between the throughbore and upper seal wall and extending *substantially* into said upper seal portion.

Applicants assert that Haber fails as an anticipatory reference because it fails to teach or suggest all of the features of the claimed invention. Specifically, Applicants assert that Haber fails to teach or suggest a cylindrical wall protector integrally formed with the upper surface at the throughbore and furthermore, fails to teach or suggest that the cylindrical wall protector extends *substantially* into the upper portion of the upper seal portion.

For clarification, the upper portion of Figure 4 of Haber has been reproduced below.



As shown above, Figure 4 of Haber discloses that the locking plate 98 has a hollow cylindrical boss 100 sized to fit within a circular hole formed in the bulkhead 104. Indeed, nowhere does Haber teach or suggest a cylindrical wall protector integrally formed with the upper surface as in the claimed invention. Furthermore, nowhere does Haber teach or suggest a cylindrical wall protector extending into the upper seal portion. As illustrated above, the cylindrical boss 100 does not extend into the conical seal sealing element 144 but only contacts the upper boundary of the seal element 144. Moreover, Haber does not disclose any sort of cannula receiving opening adapted to mount the seal assembly on the cannula as set forth by the disclosure.

Moreover, Haber does not disclose a cylindrical wall protector located between the throughbore overlapping in a longitudinal direction, and separated from said upper seal wall and extending substantially into said upper seal portion.

Therefore, Applicants assert that Haber is insufficient as an anticipatory reference because it fails to teach or suggest all the features of the claimed invention. Therefore, Applicants respectfully submit that independent claims 32 and 43, and all the claims that depend therefrom are allowable. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. § 102(b).

In view of the fact that none of the art of record, whether considered alone or in any proper combination, discloses or suggests the present invention as defined by the pending claims, and in further view of the above remarks, reconsideration of the Examiner's action and allowance of the present application are respectfully requested and are believed to be appropriate.

Pursuant to MPEP §714.13, Applicants contend that entry of the present amendment is appropriate because the proposed amended claims avoid the rejections set forth in the last Office Action, resulting in the application being placed in condition for allowance, or, alternatively, the revised claims place the application in better condition for purposes of appeal. Furthermore, the revised claims do not present any new issues that would require any further consideration and/or search by the Examiner because the issue of seal and wall positioning has been a central issue of prosecution, and the amendment does not present any additional claims without canceling a like number of pending claims. Accordingly, entry of the present amendment is respectfully requested.

### CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that all of the rejections have been overcome, and that the claims are patentably distinct from the prior art of record and in condition for allowance. The Examiner is respectfully requested to pass the above application to issue, and to contact the undersigned at the telephone number listed below, if needed. Applicants hereby make a written conditional petition for extension of time, if required. Please charge any deficiencies in fees and credit any overpayment of fees to **Attorney Deposit Account No. 23-11951 (McGuireWoods)**.

Respectfully submitted,



John S. Hilten  
Reg. No. 52,518

**Date: November 9, 2005**

McGuireWoods LLP  
1750 Tysons Boulevard  
Suite 1800  
McLean, VA 22102-4215  
Tel: 703-712-5069  
Fax: 703-712-5196

\COM\552859.1